

1 Amend 2 Cal. Code of Regulations Section 18944 to read:

2 **§ 18944. ~~Gifts~~ Payments to Members of an Official's or Candidate's Family Members.**

3 (a) Scope of Regulation. This regulation ~~applies when determining whether a gift~~
4 ~~identifies when a payment to a public official's or candidate's~~ an official's family member that
5 would be a gift if made to the official, ~~also~~ constitutes a gift to the ~~public official or candidate for~~
6 ~~purposes of the Act~~ because it confers a personal benefit upon the official as provided in Section
7 82028(a).

8 (b) Definitions. For purposes of this regulation, ~~the following definitions apply:~~

9 ~~(1) "Official" means a public official as defined in Section 82048 or a candidate as~~
10 ~~defined in Section 82007.~~

11 ~~(2) "Official's family" or "family "Family member" includes~~ means any of the following
12 individuals:

13 ~~(A) (1) An~~ The official's spouse.

14 ~~(B) (2) A~~ "dependent child" of the official as defined in Regulation 18229.1.

15 ~~(C) (3) An~~ The official's child (including an adoptive child or stepchild) who meets all
16 of the following criteria:

17 (i) Is at least 18 but no more than 23 years old and is a full-time or part-time student.

18 (ii) Has the same principal place of residence as the official. For purposes of this
19 provision, a place, ~~located away from~~ other than the official's residence, at which the child
20 resides solely for the purpose of attending school is not the child's "principal place of residence."

21 (iii) Does not provide over one-half of his or her own support.

1 (c) Payment to both Official and Family Member. A ~~single gift given~~ payment made to
2 both ~~an~~ the official and one or more ~~members of the official's family~~ members is a gift to the
3 official for the full value of the gift.

4 (d) ~~The following applies to a gift given~~ Payment Made Solely to Family Member. A
5 payment made solely to a ~~member of an official's family.~~

6 (1) ~~A gift given solely to a member of an official's family~~ member that confers a
7 personal benefit on the official is a gift to the official ~~when the gift confers a clear personal~~
8 ~~benefit on the official.~~ unless the official can show there is a substantive working, social, or
9 similar relationship between the donor and the official's family member independent of the
10 relationship between the donor and the official, and that the donor had no intent to confer a
11 personal benefit directly on the official. A ~~gift payment~~ to ~~an official's~~ a family member confers
12 a ~~clear~~ personal benefit on the official in any of the following circumstances:

13 (A) (1) It is reasonably foreseeable at the time the gift payment is made that the official
14 will ~~enjoy~~ receive a financial benefit from the gift payment. A "financial benefit" ~~from a gift~~
15 includes, but is not limited to, a payment, other than occasional meals, lodging, or ~~local~~
16 transportation, to fulfill a commitment, obligation, or expense of the type normally paid by a
17 family for the ordinary care and support of ~~one of its members~~ the family member.

18 (B) (2) It is reasonably foreseeable at the time the gift payment is made that the official
19 will ~~use the gift, except for a~~ make more than minimal use of the benefit provided.

20 (C) (3) The official exercises ~~discretion~~ direction and control over who will ~~use or~~
21 ~~dispose of~~ receive the gift payment. Exercising "~~discretion~~ direction and control" includes, ~~but is~~
22 ~~not limited to, when an official, or his or her agent, requests a gift for, or to~~ a request by the
23 official, or his or her agent, that the payment be used by, made to ~~the official's~~ a family member.

1 ***~~(2)~~ (e) ~~A gift given~~ payment made solely to either a member of an official's family
2 ~~and not covered under subdivision (1)~~ member of a state agency official subject to Section 87200
3 by a donor who is a lobbyist, lobbying firm, lobbyist employer, or other person required to file
4 reports under Chapter 6 (commencing with Section 86100) of the Act or a family member of a
5 local agency official subject to Section 87200 by a donor who is or has been directly involved in
6 a governmental decision, as defined in Regulation 18704.1(a), in which the official will
7 foreseeably participate or has participated in the last 12 months, ~~and not covered under~~
8 ~~subdivision (1)~~ is a gift to the official unless if the gift confers a presumed personal benefit on
9 ~~the official. A gift to an official's family member confers a presumed personal benefit on the~~
10 ~~official in any of the following circumstances:~~

11 ~~(A) The gift is made to a family member of a state agency official who is subject to~~
12 ~~Section 87200 by a donor who is a lobbyist, lobbying firm, lobbyist employer, or other person~~
13 ~~required to file reports under Chapter 6 (commencing with Section 86100) of the Act.~~

14 ~~(B) The gift is made to a family member of a local government agency official who is~~
15 ~~subject to Section 87200 by a donor who is or has been directly involved in a governmental~~
16 ~~decision, as defined in Regulation 18704.1(a), in which the official will foreseeably participate or~~
17 ~~has participated in the prior 12 month period.~~

18 ~~(3) Exceptions.~~

19 ~~(A) There is no gift to an official under paragraph (1) if both of the following~~
20 ~~circumstances apply:~~

21 ~~(i)~~ (1) The official can show there is ~~an established~~ a substantive working, social, or
22 similar relationship between the donor and the ~~official's~~ family member independent of the

relationship between the donor and the official, and that the donor had no intent to confer a personal benefit directly on the official; and

~~(ii) (2) The person who made the gift is not a donor identified in paragraphs (2)(A) or (2)(B).~~ The gift does not confer a personal benefit on the official as described in paragraphs (d) (1-3).

~~(B) The official can rebut the presumption in paragraph (2) if he or she can show there is an established working, social, or similar relationship between the donor and the official's family member independent of the relationship between the donor and the official.~~

~~(e) This regulation does not apply to the type of gift that, under the Act or other Commission regulations, would not be considered a gift if given directly to the official.~~

NOTE: Authority cited: Section 83112, Government Code. Reference: Section 82028, Government Code.